



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Secretary

December 8, 1987

Mr.

Dear Mr. :

This is in response to your November 23, 1987, letter to this Board "to petition a hearing with regard to your notice of denial of secured property tax exemption under Revenue and Taxation Code section 214 on the parcel 80-110350, Solano County (street address, California)". The matter is complicated by the fact that (Ironworkers), as owner of the property, and Training and Retraining Fund (Fund), as operator of the property, both filed claims for the welfare exemption from property taxation for the 1987-88 fiscal year while the Fund also filed a claim for the public schools exemption from property taxation for the same fiscal year.

Initially, the welfare exemption is administered jointly by this Board and by county assessors, in this instance, the Solano County Assessor, whereas the public schools exemption is administered solely by county assessors. As to the welfare exemption, Revenue and Taxation Code section 214 provides that property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations, or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from property taxation if all the requirements for exemption are met. Thus, the welfare exemption is both an "ownership" and a "use" exemption: an organization which meets all the requirements for exemption must own the property and the property must be used for qualifying purposes. If other organizations also use the property, both they and the owner must meet all the requirements for exemption and the property must be used by all for qualifying purposes. Specific

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requirements for the exemption were set forth and discussed in Ms. Colleen Dottarar's October 21, 1987, letter to you, copy enclosed.

Against this background then, Ironworkers' and the Fund's claims for the welfare exemption were denied by the Board because:

A.I. - Articles of Incorporation of the corporation, or in the case of any other fund or foundation, the bylaws, articles of association, constitution, or regulations not submitted. The submitted document must contain acceptable irrevocable dedication and dissolution clause.

N.T.L. - No tax letters under section 2370ld, Revenue and Taxation Code or Section 501(c)(3), Internal Revenue Code.

N.F.S. and N.O.S. - The financial and operating statement of organization not submitted. Need copy of most current statement of assets, liabilities, income and expenses.

N.E.U. - Property is not used exclusively for religious, hospital, or charitable purposes within the meaning of Revenue and Taxation Code section 214.

C.N.A. - Charitable aspect not apparent. Claimant must explain in detail the charitable use of the property.

Thus, Ironworkers has filed no articles of incorporation, no section 2370ld or section 510(c)(3) income tax exemption letter, and no financial and operating statements. Similarly, it has not established any charitable aspect of its organization and operation or of its use or others' use of the property. As to the Fund, it also has filed no articles of incorporation or other originating document, no section 2370ld or section 501(c)(3) income tax exemption letter, and no financial and operating statements, and it too has not established any charitable aspect of its organization and operation or of its use or others' use of the property.

Absent articles of incorporation including acceptable statements of irrevocable dedication and dissolution clauses (Rev. & Tax. Code, §§ 214(a)(6) and 214.01), section 2370ld or 501(c)(3) income tax exemption letters (Rev. & Tax. Code, § 214.8), and financial and operating statements (Rev. & Tax. Code, § 254.5), Board consideration of these claims would serve no purpose. This is because even were Ironworkers and the Fund able to establish charitable aspects of their organizations and operations, and even if they were able to establish exclusive charitable uses of the property, the Board would still have to

find the property ineligible for the exemption and continue to deny Ironworkers' and the Fund's claims because the requirements of sections 214(a)(6), 214.01, 214.8, and 254.5 are not met.

Further in this regard, it is unlikely that Ironworkers and the Fund could establish either charitable aspects of their organizations and operations or exclusive charitable uses of the property. According to the claims, Ironworkers is a local union and the Fund is a Trade School. A local union is not a charitable organization, and a union trade school is most likely not a charitable organization either. See Alcoser v. San Diego County (1980) 111 Cal.App.3d 907 in this regard wherein a construction industry vocational training school operated under a trust that was created by a labor union and construction industry employers, pursuant to a collective bargaining agreement. The trust claimed an exemption from real and personal property taxes under section 214, contending that its training school operated for the benefit of the general community and thus qualified for the welfare exemption. The trial court found that the trust was intended to benefit its union and employer parties and not the community in general. The District Court of Appeal affirmed, concluding that the school's impact on the general community was peripheral to the true beneficial purpose of the training and job placement activities performed.

Also, according to the claims the property is used for a trade school, according to the Lease Agreement, the Fund conducts training classes for ironworkers, and according to your October 31, 1985, letter to the Solano County Assessor, the Fund trains persons to become field ironworkers and retrains journeyman ironworkers with specific new skills. Such uses of the property are not exclusive charitable uses of the property as section 214 requires (Alcoser v. San Diego County, supra).

As to the public schools exemption, administered, as indicated, solely by county assessors, Revenue and Taxation Code section 202(a)(3) provides that property used exclusively for public schools, community colleges, state colleges, and state universities is exempt from property taxation.

According to the Fund's claim for the public schools exemption, the property is owned by Ironworkers and is used by the Fund for a trade school. And the Lease Agreement is between Ironworkers and the Fund, not any public school or public school district.

When called upon to interpret section 202(a)(3), it has been our longstanding interpretation that the section applies only

to public school districts and to public schools therein. This is because the section refers also to community colleges, state colleges, and state universities, all public entities. Additionally, decided cases pertaining to the public schools exemption have all involved public schools and public school districts, and the courts have continuously emphasized that the exemption is for the advantage of school districts (Ross v. City of Long Beach (1944) 24 Cal.2d 258, Honeywell Information Systems, Inc. v. Sonoma County (1974) 44 Cal.App.3d 23, and Yttrup Homes v. Sacramento County (1977) 73 Cal.App.3d 279).

Thus, not being property used by a public school district or a public school therein exclusively for public school purposes, we would conclude that the use of the property by the Fund for a trade school would not be exclusive use of the property for public school purposes, and that the property would not be eligible for the public schools exemption.

The phrase "property used exclusively for public schools" was construed by the California Supreme Court in Ross v. City of Long Beach, *supra*. In that case, plaintiffs had leased both real property and a building thereon to the Long Beach City High School District for use exclusively as and for a public school, and they brought an action to recover taxes levied upon the property and paid by them under protest. As the property had been used exclusively for public school purposes, it was held exempt from taxation on that ground. The Court pointed out that the exemption of property used for public school purposes is not for the benefit of the private owner who may rent his property for said purposes, but for the advantage of the school district which may be compelled to rent property rather than to buy land and erect buildings thereon to be used for the maintenance of its schools. Similarly, the word "exclusively" was construed by the District Court of Appeal in Honeywell Information Systems, Inc. v. Sonoma County, *supra*. In that case, Honeywell sought to avail itself of the exemption for a computer system leased to Sonoma County Schools and used by Schools (96.44% of total time), by parochial schools (3% of total time), and by private businesses (.56 of total time), the proceeds from the parochial schools' and businesses' use which had then been used by the County for its general purposes. As the property had been used to some extent by others and for fund-raising purposes, it was not used exclusively for public school purposes, and the Court held that the exemption was not available for the system.

In conclusion, as the public schools exemption is administered solely by county assessors, you will have to inquire of the

December 8, 1987

Solano County Assessor's office as to whether the Fund's claim for the public schools exemption was granted or denied:

Mr. Robert P. Blechschmidt
Solano County Assessor
Courthouse Annex
Fairfield, CA 94533
(707)429-6281

Very truly yours,



James K. McManigal, Jr.
Tax Counsel

JKM/rz

Enclosure

cc: Mr. Robert P. Blechschmidt
Solano County Assessor
Ms. Vina M. Pullen